

S. 5378

A. 7872

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 27, 2009

IN SENATE -- Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

IN ASSEMBLY -- Introduced by M. of A. SCARBOROUGH, BRADLEY, CAMARA -- read once and referred to the Committee on Children and Families

AN ACT to amend the executive law, the state finance law and the family court act, in relation to alternative-to-detention programs for juveniles; and to repeal certain provisions of the executive law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature finds that New York
2 state could simultaneously realize significant fiscal savings and posi-
3 tively impact the lives of court-involved children by encouraging coun-
4 ties to expand access to alternative-to-detention programs and alterna-
5 tive-to-placement programs. Average costs per bed for pre-trial
6 detention range from \$150,000 outside of New York city and over \$200,000
7 inside New York city. The cost to incarcerate a child in an office of
8 children and family services placement is approximately \$150,000 a year.
9 These expenditures have yielded dismal results as evidenced by the
10 forty-six percent re-admission rate within one year for youth in the
11 custody of the New York city department of juvenile justice and the
12 seventy-six percent recidivism rate for youth released from the office
13 of children and family services facilities.
14 Currently, counties throughout the state receive a fifty percent
15 reimbursement for the costs of detaining a youth pre-trial. However,
16 there is no similar fiscal arrangement for counties choosing to imple-
17 ment alternatives-to-detention and placement for juveniles. There exists
18 significant purpose and public interest in the expansion of alterna-
19 tive-to-placement that reduce youth recidivism, provide meaningful life

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 interventions, and drastically reduce the costs associated with incar-
2 cerating juveniles. A sixty-five percent reimbursement rate for youth
3 diverted into alternative programs would encourage the statewide expan-
4 sion of such programs. The reimbursement plan would also help counties
5 build and maintain a community-based and results-proven infrastructure
6 that works toward the positive support of youth and the prevention of
7 juvenile delinquency. Sixty percent of the funds saved in the fiscal
8 year 2009-2010 budget should be redirected to cover the start-up funds
9 necessary to implement Re-Direct New York.

10 S 2. Subdivisions 2 and 2-a of section 530 of the executive law are
11 REPEALED and a new subdivision 2 is added to read as follows:

12 2. (A) EACH COUNTY, AND THE CITY OF NEW YORK, SHALL PREPARE AND SUBMIT
13 A COMPREHENSIVE DETENTION PLAN TO THE COMMISSIONER OF THE OFFICE OF
14 CHILDREN AND FAMILY SERVICES, AFTER CONSULTATION WITH THE PERSONS OR
15 AGENCY REPRESENTATIVES, OR THEIR DESIGNEES: THE DIRECTOR OF THE SOCIAL
16 SERVICES DISTRICT, THE COUNTY DIRECTOR OR COMMISSIONER OF PROBATION, THE
17 FAMILY COURT JUDGE, THE DIRECTOR OR COMMISSIONER OF THE COUNTY DETENTION
18 AGENCY, A REPRESENTATIVE FROM THE COUNTY ATTORNEY OR CORPORATION COUN-
19 SEL'S OFFICE, A REPRESENTATIVE FROM THE LAW GUARDIAN'S OFFICE OR OTHER
20 LEGAL SERVICES PROVIDER, A REPRESENTATIVE FROM THE YOUTH BUREAU, A
21 REPRESENTATIVE OF THE POLICE DEPARTMENT AND AT LEAST ONE REPRESENTATIVE
22 FROM A COMMUNITY-BASED ORGANIZATION WORKING WITH COURT-INVOLVED YOUTH.
23 THIS PLAN SHALL DESCRIBE THE COUNTY'S THREE-YEAR PLAN TO REDUCE ITS USE
24 OF SECURE AND NON-SECURE DETENTION FACILITIES AND POST-DISPOSITION
25 PLACEMENTS. COMMENCING THE YEAR FOLLOWING THE PREPARATION OF A
26 THREE-YEAR COMPREHENSIVE DETENTION PLAN, EACH COUNTY SHALL PREPARE ANNU-
27 AL IMPLEMENTATION REPORTS. THE OFFICE OF CHILDREN AND FAMILY SERVICES
28 SHALL REVIEW AND APPROVE OR DISAPPROVE THE PROPOSED PLAN AND REPORTS IN
29 ACCORDANCE WITH THE PROCEDURES SET FORTH IN PARAGRAPH (F) OF THIS SUBDI-
30 VISION.

31 THE GOAL OF EACH COUNTY AND NEW YORK CITY'S COMPREHENSIVE DETENTION
32 PLAN SHALL BE TO REDUCE THE USE OF SECURE AND NON-SECURE DETENTION
33 FACILITIES AND POST-DISPOSITION PLACEMENTS AS MEASURED BY DECREASING
34 DAILY POPULATIONS AND/OR ADMISSIONS TO DETENTION AND PLACEMENT. EACH
35 LOCALITY'S PLAN SHALL DETAIL CRITERIA AND SCREENING TOOLS USED TO DETER-
36 MINE YOUTH ELIGIBILITY FOR REFERRAL TO AN ALTERNATIVE PROGRAM. PORTIONS
37 OF THE SAVINGS REALIZED AND REIMBURSEMENTS RECEIVED FOR THE IMPLEMENTA-
38 TION OF ALTERNATIVE PROGRAMS SHOULD BE RE-INVESTED WITHIN THE LOCALITY
39 TO MAINTAIN AND BUILD UPON THE USE OF COMMUNITY-BASED, RESULTS-PROVEN
40 ALTERNATIVES-TO-DETENTION AND INCARCERATION AND TO EXPLORE AND IMPLEMENT
41 EARLY-PREVENTION PLANNING. EACH LOCALITIES COMPREHENSIVE DETENTION PLAN
42 SHALL DETAIL THE DECISION MAKING PROCESS FOR THE ALLOCATION OF SAVED
43 FUNDS TO BE REINVESTED IN ALTERNATIVES-TO-DETENTION AND ALTERNATIVE-TO-
44 PLACEMENT PROGRAMS.

45 (B) EXPENDITURES MADE BY SOCIAL SERVICES DISTRICTS, AND/OR PROBATION
46 DEPARTMENTS, IN PROVIDING CARE, MAINTENANCE AND SUPERVISION TO YOUTH IN
47 SECURE AND NON-SECURE DETENTION FACILITIES DESIGNATED PURSUANT TO
48 SECTIONS SEVEN HUNDRED TWENTY-FOUR AND 305.2 OF THE FAMILY COURT ACT AND
49 CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, SHALL BE
50 SUBJECT TO REIMBURSEMENT BY THE STATE IN ACCORDANCE WITH ITS REGU-
51 LATIONS, AS FOLLOWS:

52 (I) THE FULL PER DIEM RATE SET BY THE STATE OFFICE OF CHILDREN AND
53 FAMILY SERVICES FOR SUCH PROGRAMS FOR THE CARE, MAINTENANCE AND SUPER-
54 VISION OF STATE CHARGES;

1 (II) FIFTY PERCENT OF THE PER DIEM RATE SET BY THE STATE OFFICE OF
2 CHILDREN AND FAMILY SERVICES FOR SUCH PROGRAMS FOR THE CARE, MAINTENANCE
3 AND SUPERVISION OF LOCAL CHARGES; AND

4 (III) SUBJECT TO APPROVAL OF THE COMPREHENSIVE DETENTION PLAN SPECI-
5 FIED IN THIS SUBDIVISION, EXPENDITURES MADE BY SOCIAL SERVICES
6 DISTRICTS, AND/OR PROBATION DEPARTMENTS, IN PLANNING FOR AND PROVIDING
7 ALTERNATIVE-TO-DETENTION AND ALTERNATIVE-TO-INCARCERATION PROGRAMS OPER-
8 ATED BY COMMUNITY-BASED, NOT-FOR-PROFIT ORGANIZATIONS SHALL BE REIM-
9 BURSED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AT SIXTY-FIVE
10 PERCENT OF THE PER DIEM RATE SET BY THE OFFICE OF CHILDREN AND FAMILY
11 SERVICES.

12 NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, SECTION THREE
13 HUNDRED NINETY-EIGHT-A OF THE SOCIAL SERVICES LAW SHALL NOT APPLY TO
14 FACILITIES CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES
15 PURSUANT TO SECTION FIVE HUNDRED THREE OF THIS ARTICLE.

16 (C) EXPENDITURES MADE BY SOCIAL SERVICES DISTRICTS AND/OR PROBATION
17 DEPARTMENTS, IN PROVIDING CARE, MAINTENANCE AND SUPERVISION TO YOUTH IN
18 ALTERNATIVE-TO-DETENTION PROGRAMS CERTIFIED BY THE OFFICE OF CHILDREN
19 AND FAMILY SERVICES, SHALL BE SUBJECT TO REIMBURSEMENT BY THE STATE IN
20 ACCORDANCE WITH ITS REGULATIONS, AS FOLLOWS:

21 (I) UP TO SIXTY-FIVE PERCENT OF THE PER DIEM RATE SET BY THE STATE
22 OFFICE OF CHILDREN AND FAMILY SERVICES FOR SUCH PROGRAMS FOR THE CARE,
23 MAINTENANCE AND SUPERVISION OF LOCAL CHARGES IN STATE FISCAL YEAR TWO
24 THOUSAND NINE--TWO THOUSAND TEN;

25 (II) SUBJECT TO APPROVAL OF THE COMPREHENSIVE DETENTION PLAN SPECIFIED
26 IN THIS SUBDIVISION, EXPENDITURES MADE BY SOCIAL SERVICES DISTRICTS,
27 AND/OR PROBATION DEPARTMENTS, IN PLANNING FOR AND PROVIDING ALTERNA-
28 TIVE-TO-DETENTION PROGRAMS OPERATED BY COMMUNITY-BASED, NOT-FOR-PROFIT
29 ORGANIZATIONS SHALL BE REIMBURSED BY THE OFFICE OF CHILDREN AND FAMILY
30 SERVICES AT SIXTY-FIVE PERCENT OF THE PER DIEM RATE SET BY THE OFFICE OF
31 CHILDREN AND FAMILY SERVICES.

32 (D) TO QUALIFY FOR THE SIXTY-FIVE PERCENT REIMBURSEMENT THE LOCALITY
33 MUST EVIDENCE A TWENTY-FIVE PERCENT REDUCTION IN DETENTION USAGE AS
34 MEASURED BY A DECREASE IN THE AVERAGE DAILY DETENTION POPULATION OR A
35 DECREASE IN RATES OF ADMISSION TO DETENTION. THE RATE OF REDUCTION SHALL
36 BE MEASURED FROM THE AVERAGE DAILY DETENTION POPULATION AND RATES OF
37 ADMISSION TO DETENTION AS OF JULY FIRST, TWO THOUSAND SEVEN. TO CONTINUE
38 RECEIVING THE REDUCTION REIMBURSEMENT, THE LOCALITY'S DETENTION POPU-
39 LATION OR ADMISSION RATE (WHICHEVER WAS THE INITIAL MEASUREMENT TOOL)
40 SHALL NOT RISE MORE THAN FIVE PERCENT ABOVE THE REIMBURSEMENT QUALIFYING
41 THRESHOLD. IN THE EVENT THAT A LOCALITY'S AVERAGE DAILY POPULATION OR
42 RATES OF ADMISSION SHOULD RISE ABOVE THE QUALIFYING THRESHOLD, THAT
43 LOCALITY SHALL ASSUME FULL COSTS FOR THE IMPLEMENTATION AND MAINTENANCE
44 OF ITS ALTERNATIVE-TO-DETENTION PROGRAMS.

45 (E) (I) IN ITS COMPREHENSIVE DETENTION PLAN, EACH COUNTY AND NEW YORK
46 CITY SHALL DETAIL ITS SCREENING AND ASSESSMENT TOOLS FOR DETERMINING
47 ALTERNATIVE PROGRAM REFERRAL ELIGIBILITY. EACH PROGRAM SHALL REPORT
48 ANNUALLY THE TOTAL NUMBER OF YOUTH REFERRALS RECEIVED, NUMBER OF YOUTH
49 REFERRALS ACCEPTED, NUMBER OF YOUTH REFERRALS REJECTED, THE OFFENSES OF
50 YOUTH REJECTED, THE OFFENSES OF YOUTH ACCEPTED, AND THE NUMBER OF YOUTH
51 REJECTED DUE TO MENTAL HEALTH NEEDS. THIS DATA SHALL ALSO BE CATEGORIZED
52 BY RACE/ETHNICITY AND GENDER.

53 (II) THE FUNDED ALTERNATIVE TO DETENTION AND ALTERNATIVE TO PLACEMENT
54 PROGRAMS SHALL REPORT TO ITS FUNDING ENTITY THE FOLLOWING DATA, CATEGOR-
55 IZED BY AGE, RACE, AND OFFENSE TO THE EXTENT POSSIBLE:

56 (A) NUMBER OF YOUTH REFERRED TO PROGRAM;

1 (B) NUMBER OF YOUTH COMPLETING PROGRAM;
2 (C) NUMBER OF YOUTH VIOLATED FOR NON-COMPLIANCE;
3 (D) RATES OF SCHOOL ATTENDANCE FOR YOUTH IN THE PROGRAM;
4 (E) YOUTH TO STAFF RATIO FOR EACH STAFF CATEGORY (CLINICAL, COMPLIANCE
5 MONITORS, LINE STAFF);
6 (F) NUMBER OF REFERRALS GIVEN FOR ADDITIONAL ASSISTANCE REQUESTS
7 (E.G., FAMILY ASSISTANCE, COUNSELING, HOUSING);
8 (G) NUMBER OF YOUTH ARRESTED WHILE IN PROGRAM AND/OR WITHIN ONE YEAR
9 OF COMPLETING PROGRAM;
10 (H) DESCRIPTION OF VIOLATION PROCESS; AND
11 (I) DESCRIPTION OF EDUCATIONAL AND OTHER INFORMATION PROVIDED TO
12 YOUTH.
13 (III) THE INFORMATION REQUIRED IN SUBPARAGRAPHS (I) AND (II) OF THIS
14 PARAGRAPH SHALL BE REPORTED ANNUALLY TO THE SOCIAL SERVICES DISTRICT
15 AND/OR PROBATION DEPARTMENT. THE ANNUAL REPORT SHALL LIST THIS DATA IN
16 QUARTERLY INTERVALS.
17 (F) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ENSURE THAT
18 SOCIAL SERVICES DISTRICTS AND/OR PROBATION DEPARTMENTS ARE REFERRING
19 YOUTH TO COMMUNITY-BASED ORGANIZATIONS PROVIDING CULTURALLY COMPETENT,
20 EVIDENCED BASED AND POSITIVE YOUTH DEVELOPMENT PROGRAMMING, WITH LIMITED
21 EXCEPTION. FUNDED COMMUNITY-BASED ORGANIZATIONS SHOULD UTILIZE
22 STRENGTH-BASED APPROACHES THAT PROVIDE YOUTH WITH SKILL SETS AND OPPOR-
23 TUNITIES FOR ACHIEVEMENT. THE ORGANIZATIONS SHOULD ALSO BE ABLE TO
24 PROVIDE LONG-TERM SUPPORT WITHIN THE YOUTH'S COMMUNITY.
25 (I) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL, IN COOPERATION
26 WITH THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES, THE OFFICE
27 OF MENTAL HEALTH, AND THE OFFICES OF ALCOHOLISM AND SUBSTANCE ABUSE
28 SERVICES; REVIEW THE INTERVENTION AND PREVENTION PROGRAM MODELS FUNDED
29 BY THE SOCIAL SERVICES DISTRICTS AND/OR PROBATION DEPARTMENTS AND GRANT
30 EACH PROGRAM ONE OF THE FOLLOWING CLASSIFICATIONS: EVIDENCED BASED,
31 PROMISING, DILIGENTLY WORKING TO COLLECT EVIDENCE, OR NONE OF THE ABOVE.
32 (A) THE TERM "EVIDENCE BASED" MEANS A PROGRAM THAT IS DEMONSTRATED
33 WITH RELATIVE EVIDENCE, NORMED AND VALIDATED FOR THE DIVERSE POPULATION,
34 TO BE EITHER:
35 (1) EXEMPLARY, SUCH THAT IT IS IMPLEMENTED WITH A HIGH DEGREE OF
36 FIDELITY AND DEMONSTRATES ROBUST EMPIRICAL FINDINGS USING A REPUTABLE
37 CONCEPTUAL FRAMEWORK AND AN EXPERIMENTAL EVALUATION DESIGN OF THE HIGH-
38 EST QUALITY (A RANDOM ASSIGNMENT CONTROL TRIAL); OR
39 (2) EFFECTIVE, SUCH THAT IT IS IMPLEMENTED WITH SUFFICIENT FIDELITY
40 THAT IT DEMONSTRATES ADEQUATE EMPIRICAL FINDINGS USING A SOUND CONCEPTU-
41 AL FRAMEWORK AND A QUASI-EXPERIMENTAL EVALUATION DESIGN OF HIGH QUALITY
42 (COMPARISON GROUP WITHOUT RANDOM ASSIGNMENT CONTROL GROUP).
43 (B) THE TERM "PROMISING" MEANS A PROGRAM THAT DEMONSTRATES EFFECTIVE-
44 NESS USING REASONABLE, LIMITED FINDINGS, AND THAT HAS UNDERWAY A MORE
45 APPROPRIATE EVALUATION THAT MEETS THE CRITERIA SET FORTH IN CLAUSE (A)
46 OF THIS SUBPARAGRAPH FOR DETERMINING EVIDENCE-BASED PROGRAMS.
47 (C) "DILIGENTLY WORKING TO COLLECT EVIDENCE" SHALL APPLY TO ANY EXIST-
48 ING OR NEWLY FORMED PROGRAM THAT IS COLLECTING DATA TO ESTABLISH THE
49 NECESSARY QUALIFICATIONS FOR CLASSIFICATION AS "EVIDENCE BASED" OR
50 "PROMISING".
51 (D) "NONE OF THE ABOVE" SHALL BE APPLIED TO PROGRAMS THAT DO NOT
52 EVIDENCE A DETERRENT EFFECT AND DO NOT COLLECT, ANALYZE, AND/OR PUBLISH
53 ANY CLIENT OUTCOME DATA.
54 (II) SOCIAL SERVICES DISTRICTS AND/OR PROBATION SHALL UTILIZE THE
55 FOLLOWING FUND ALLOCATION PRIORITIZATION:
56 (A) EVIDENCE-BASED PROGRAMS ARE FIRST PRIORITY FOR FUNDING;

(B) PROMISING PROGRAMS SHALL BE FUNDED WHEN NO HIGHER CATEGORY PROGRAM EXISTS TO ADDRESS AN ISSUE;

(C) "DILIGENTLY WORKING TO COLLECT EVIDENCE" PROGRAMS MAY BE FUNDED WHEN NO HIGHER CATEGORY PROGRAM EXISTS TO ADDRESS AN ISSUE; AND

(D) ANY PROGRAM NOT ELIGIBLE FOR ANY OF THESE CLASSIFICATIONS SHALL NOT BE FUNDED USING THIS FUNDING STREAM.

(III) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL REVIEW THE PROGRAM MODELS AND ASSESS CLASSIFICATIONS ANNUALLY AND PUBLISH THE RESULTS OF THIS REVIEW.

(IV) FIFTY PERCENT OF ALL REIMBURSEMENTS MADE BY SOCIAL SERVICES DISTRICTS FOR CARE, MAINTENANCE AND SUPERVISION UNDER THIS SECTION SHALL BE PAID DIRECTLY TO THE STATE THROUGH THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR DEPOSIT INTO A MISCELLANEOUS SPECIAL REVENUE FUND KNOWN AS THE ALTERNATIVE-TO-DETENTION PROGRAM PER DIEM ACCOUNT.

S 3. Section 529 of the executive law is amended by adding a new subdivision 3 to read as follows:

3. EACH COUNTY, AND THE CITY OF NEW YORK, SHALL PREPARE AND SUBMIT A COMPREHENSIVE DETENTION PLAN TO THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, AFTER CONSULTATION WITH THE PERSONS OR AGENCY REPRESENTATIVES, OR THEIR DESIGNEES: THE DIRECTOR OF THE SOCIAL SERVICES DISTRICT, THE COUNTY DIRECTOR OR COMMISSIONER OF PROBATION, THE FAMILY COURT JUDGE, THE DIRECTOR OR COMMISSIONER OF THE COUNTY DETENTION AGENCY, A REPRESENTATIVE FROM THE COUNTY ATTORNEY OR CORPORATION COUNSEL'S OFFICE, A REPRESENTATIVE FROM THE LAW GUARDIAN'S OFFICE OR OTHER LEGAL SERVICES PROVIDER, A REPRESENTATIVE FROM THE YOUTH BUREAU, A REPRESENTATIVE OF THE POLICE DEPARTMENT AND AT LEAST ONE REPRESENTATIVE FROM A COMMUNITY-BASED ORGANIZATION WORKING WITH COURT-INVOLVED YOUTH. THIS PLAN SHALL DESCRIBE THE COUNTY'S THREE-YEAR PLAN TO REDUCE ITS USE OF SECURE AND NON-SECURE DETENTION FACILITIES AND POST-DISPOSITION PLACEMENTS. COMMENCING THE YEAR FOLLOWING THE PREPARATION OF A THREE-YEAR COMPREHENSIVE DETENTION PLAN, EACH COUNTY SHALL PREPARE ANNUAL IMPLEMENTATION REPORTS. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL REVIEW AND APPROVE OR DISAPPROVE THE PROPOSED PLAN AND REPORTS IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN PARAGRAPH (D) OF THIS SUBDIVISION.

THE GOAL OF EACH COUNTY AND NEW YORK CITY'S COMPREHENSIVE DETENTION PLAN SHALL BE TO REDUCE THE USE OF SECURE AND NON-SECURE DETENTION FACILITIES AND POST-DISPOSITION PLACEMENTS AS MEASURED BY DECREASING DAILY POPULATIONS AND/OR ADMISSIONS TO DETENTION AND PLACEMENT. EACH LOCALITY'S PLAN SHALL DETAIL CRITERIA AND SCREENING TOOLS USED TO DETERMINE YOUTH ELIGIBILITY FOR REFERRAL TO AN ALTERNATIVE PROGRAM. PORTIONS OF THE SAVINGS REALIZED AND REIMBURSEMENTS RECEIVED FOR THE IMPLEMENTATION FOR ALTERNATIVE PROGRAMS SHOULD BE RE-INVESTED WITHIN THE LOCALITY TO MAINTAIN AND BUILD UPON THE USE OF COMMUNITY-BASED, RESULTS-PROVEN ALTERNATIVES TO DETENTION AND INCARCERATION AND TO EXPLORE AND IMPLEMENT EARLY-PREVENTION PLANNING. EACH LOCALITY'S COMPREHENSIVE DETENTION PLAN SHALL DETAIL THE DECISION MAKING PROCESS FOR THE ALLOCATION OF SAVED FUNDS TO BE REINVESTED IN ALTERNATIVES-TO-DETENTION AND ALTERNATIVE-TO-PLACEMENT PROGRAMS.

(A) EXPENDITURES MADE BY SOCIAL SERVICES DISTRICTS, AND/OR DEPARTMENTS OF PROBATION IN PROVIDING CARE, MAINTENANCE AND SUPERVISION TO YOUTH ASSIGNED TO COMMUNITY-BASED, NOT-FOR-PROFIT, POST-DISPOSITION ALTERNATIVES-TO-PLACEMENT OR REFERRED PURSUANT TO PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION 352.2 OF THE FAMILY COURT ACT, INCLUDING ALLEGED AND ADJUDICATED JUVENILE DELINQUENTS AND PERSONS IN NEED OF SUPERVISION, AND JUVENILE OFFENDERS COMMITTED PURSUANT TO SECTION 70.05 OF THE PENAL LAW, SHALL BE SUBJECT TO REIMBURSEMENT BY THE STATE IN ACCORDANCE WITH ITS

1 REGULATIONS, AS FOLLOWS: SIXTY-FIVE PERCENT OF THE AMOUNT EXPENDED FOR
2 CARE, MAINTENANCE AND SUPERVISION OF LOCAL CHARGES INCLUDING JUVENILE
3 OFFENDERS.

4 (B) TO QUALIFY FOR THE SIXTY-FIVE PERCENT REIMBURSEMENT THE LOCALITY
5 MUST EVIDENCE A TWENTY-FIVE PERCENT REDUCTION IN THE RATE OF ADMISSIONS
6 TO STATE JUVENILE PLACEMENT FACILITIES. THE RATE OF REDUCTION SHALL BE
7 MEASURED FROM THE LOCALITY'S AVERAGE RATE OF ADMISSION TO STATE JUVENILE
8 PLACEMENT FACILITIES AS OF JULY FIRST, TWO THOUSAND SEVEN. TO CONTINUE
9 RECEIVING THE REDUCTION REIMBURSEMENT, THE LOCALITY'S ADMISSION RATE
10 (WHICHEVER WAS THE INITIAL MEASUREMENT BASE) SHALL NOT RISE MORE THAN
11 FIVE PERCENT ABOVE THE REIMBURSEMENT QUALIFYING THRESHOLD. IN THE EVENT
12 THAT A LOCALITY'S RATE OF ADMISSION RISES MORE THAN FIVE PERCENT ABOVE
13 THE QUALIFYING THRESHOLD, THAT LOCALITY SHALL ASSUME FULL COSTS FOR THE
14 IMPLEMENTATION AND MAINTENANCE OF ITS ALTERNATIVE-TO-PLACEMENT PROGRAMS.

15 (C)(1) IN ITS COMPREHENSIVE DETENTION PLAN, EACH COUNTY AND NEW YORK
16 CITY SHALL DETAIL ITS SCREENING AND ASSESSMENT TOOLS FOR DETERMINING
17 ALTERNATIVE PROGRAM REFERRAL ELIGIBILITY. EACH PROGRAM SHALL REPORT
18 ANNUALLY THE TOTAL NUMBER OF YOUTH REFERRALS RECEIVED, NUMBER OF YOUTH
19 REFERRALS ACCEPTED, NUMBER OF YOUTH REFERRALS REJECTED, THE OFFENSES OF
20 YOUTH REJECTED, AND THE OFFENSES OF YOUTH ACCEPTED. THIS DATA SHALL ALSO
21 BE CATEGORIZED BY RACE/ETHNICITY AND GENDER.

22 (2) THE FUNDED ALTERNATIVE TO DETENTION AND ALTERNATIVE TO PLACEMENT
23 PROGRAMS SHALL REPORT TO ITS FUNDING ENTITY THE FOLLOWING DATA, CATEGOR-
24 IZED BY AGE, RACE, AND OFFENSE TO THE EXTENT POSSIBLE:

25 (I) NUMBER OF YOUTH REFERRED TO PROGRAM;

26 (II) NUMBER OF YOUTH COMPLETING PROGRAM;

27 (III) NUMBER OF YOUTH VIOLATED FOR NON-COMPLIANCE;

28 (IV) RATES OF SCHOOL ATTENDANCE FOR YOUTH IN THE PROGRAM;

29 (V) YOUTH TO STAFF RATIO FOR EACH STAFF CATEGORY (CLINICAL, COMPLIANCE
30 MONITORS, LINE STAFF);

31 (VI) NUMBER OF REFERRALS GIVEN FOR ADDITIONAL ASSISTANCE REQUESTS
32 (E.G., FAMILY ASSISTANCE, COUNSELING, HOUSING);

33 (VII) NUMBER OF YOUTH ARRESTED WHILE IN PROGRAM AND/OR WITHIN ONE YEAR
34 OF COMPLETING PROGRAM;

35 (VIII) DESCRIPTION OF VIOLATION PROCESS; AND

36 (IX) DESCRIPTION OF EDUCATIONAL AND OTHER INFORMATION PROVIDED TO
37 YOUTH.

38 (3) THE INFORMATION REQUIRED IN SUBPARAGRAPHS ONE AND TWO OF THIS
39 PARAGRAPH SHALL BE REPORTED ANNUALLY TO THE SOCIAL SERVICES DISTRICT
40 AND/OR PROBATION DEPARTMENT. THE ANNUAL REPORT SHALL LIST THIS DATA IN
41 QUARTERLY INTERVALS.

42 (D) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ENSURE THAT
43 SOCIAL SERVICES DISTRICTS AND/OR PROBATION DEPARTMENTS ARE REFERRING
44 YOUTH TO COMMUNITY-BASED ORGANIZATIONS PROVIDING CULTURALLY COMPETENT,
45 EVIDENCE BASED AND POSITIVE YOUTH DEVELOPMENT PROGRAMMING, WITH LIMITED
46 EXCEPTION. FUNDED COMMUNITY-BASED ORGANIZATIONS SHOULD UTILIZE
47 STRENGTH-BASED APPROACHES THAT PROVIDE YOUTH WITH SKILL SETS AND OPPOR-
48 TUNITIES FOR ACHIEVEMENT. THE ORGANIZATIONS SHOULD ALSO BE ABLE TO
49 PROVIDE LONG-TERM SUPPORT WITHIN THE YOUTH'S COMMUNITY.

50 (1) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL, IN COOPERATION
51 WITH THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES, THE OFFICE
52 OF MENTAL HEALTH, AND THE OFFICES OF ALCOHOLISM AND SUBSTANCE ABUSE
53 SERVICES; REVIEW THE INTERVENTION AND PREVENTION PROGRAM MODELS FUNDED
54 BY THE SOCIAL SERVICES DISTRICTS AND/OR PROBATION DEPARTMENTS AND GRANT
55 EACH PROGRAM ONE OF THE FOLLOWING CLASSIFICATIONS: EVIDENCED BASED,
56 PROMISING, DILIGENTLY WORKING TO COLLECT EVIDENCE, OR NONE OF THE ABOVE.

1 (A) THE TERM "EVIDENCE BASED" MEANS A PROGRAM THAT IS DEMONSTRATED
2 WITH RELATIVE EVIDENCE, NORMED AND VALIDATED FOR A DIVERSE POPULATION,
3 TO BE EITHER:

4 (I) EXEMPLARY, SUCH THAT IT IS IMPLEMENTED WITH A HIGH DEGREE OF
5 FIDELITY AND DEMONSTRATES ROBUST EMPIRICAL FINDINGS USING A REPUTABLE
6 CONCEPTUAL FRAMEWORK AND AN EXPERIMENTAL EVALUATION DESIGN OF THE HIGH-
7 EST QUALITY (A RANDOM ASSIGNMENT CONTROL TRIAL); OR

8 (II) EFFECTIVE, SUCH THAT IT IS IMPLEMENTED WITH SUFFICIENT FIDELITY
9 THAT IT DEMONSTRATES ADEQUATE EMPIRICAL FINDINGS USING A SOUND CONCEPTU-
10 AL FRAMEWORK AND A QUASI-EXPERIMENTAL EVALUATION DESIGN OF HIGH QUALITY
11 (COMPARISON GROUP WITHOUT RANDOM ASSIGNMENT CONTROL GROUP).

12 (B) THE TERM "PROMISING" MEANS A PROGRAM THAT DEMONSTRATES EFFECTIVE-
13 NESS USING REASONABLE, LIMITED FINDINGS, AND THAT HAS UNDERWAY A MORE
14 APPROPRIATE EVALUATION THAT MEETS THE CRITERIA SET FORTH IN CLAUSE (A)
15 OF THIS SUBPARAGRAPH FOR DETERMINING EVIDENCE BASED PROGRAMS.

16 (C) "DILIGENTLY WORKING TO COLLECT EVIDENCE" SHALL APPLY TO ANY EXIST-
17 ING OR NEWLY FORMED PROGRAM THAT IS COLLECTING DATA TO ESTABLISH THE
18 NECESSARY QUALIFICATIONS FOR CLASSIFICATION AS "EVIDENCE BASED" OR
19 "PROMISING".

20 (D) "NONE OF THE ABOVE" SHALL BE APPLIED TO PROGRAMS THAT DO NOT
21 EVIDENCE A DETERRENT EFFECT AND DO NOT COLLECT, ANALYZE, AND/OR PUBLISH
22 ANY CLIENT OUTCOME DATA.

23 (2) SOCIAL SERVICES DISTRICTS AND/OR PROBATION SHALL UTILIZE THE
24 FOLLOWING FUND ALLOCATION PRIORITIZATION:

25 (A) EVIDENCE BASED PROGRAMS ARE FIRST PRIORITY FOR FUNDING;

26 (B) PROMISING PROGRAMS SHALL BE FUNDED WHEN NO HIGHER CATEGORY PROGRAM
27 EXISTS TO ADDRESS AN ISSUE;

28 (C) "DILIGENTLY WORKING TO COLLECT EVIDENCE" PROGRAMS MAY BE FUNDED
29 WHEN NO HIGHER CATEGORY PROGRAM EXISTS TO ADDRESS AN ISSUE; OR

30 (D) ANY PROGRAM NOT ELIGIBLE FOR ANY OF THESE CLASSIFICATIONS SHALL
31 NOT BE FUNDED USING THIS FUNDING STREAM.

32 (3) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL REVIEW THE
33 PROGRAM MODELS AND ASSESS CLASSIFICATIONS ANNUALLY AND PUBLISH THE
34 RESULTS OF THIS REVIEW.

35 (4) FIFTY PERCENT OF ALL REIMBURSEMENTS MADE BY SOCIAL SERVICES
36 DISTRICTS FOR CARE, MAINTENANCE AND SUPERVISION UNDER THIS SECTION SHALL
37 BE PAID DIRECTLY TO THE STATE THROUGH THE OFFICE OF CHILDREN AND FAMILY
38 SERVICES FOR DEPOSIT INTO A MISCELLANEOUS SPECIAL REVENUE FUND KNOWN AS
39 THE ALTERNATIVE-TO-DETENTION PROGRAM PER DIEM ACCOUNT.

40 S 4. The state finance law is amended by adding a new section 99-t to
41 read as follows:

42 S 99-T. THE ALTERNATIVE-TO-DETENTION PROGRAM PER DIEM ACCOUNT. 1.
43 THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMP-
44 TROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT IN THE
45 MISCELLANEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE
46 "ALTERNATIVE-TO-DETENTION PER DIEM ACCOUNT".

47 2. THE ALTERNATIVE-TO-DETENTION PER DIEM ACCOUNT SHALL CONSIST OF
48 FIFTY PERCENT OF THE MONEYS RECEIVED BY THE STATE PURSUANT TO SECTION
49 FIVE HUNDRED THIRTY OF THE EXECUTIVE LAW. SUCH MONEYS SHALL BE USED TO
50 SUPPORT EVIDENCE BASED, COMMUNITY-BASED PROGRAMS ALTERNATIVES TO
51 DETENTION AND ALTERNATIVES TO PLACEMENT. THE STATE OFFICE OF CHILDREN
52 AND FAMILY SERVICES WILL DETERMINE REIMBURSEMENT ELIGIBILITY BASED ON
53 EACH COUNTY AND NEW YORK CITY'S COMPREHENSIVE DETENTION PLAN, AS
54 REQUIRED BY SUBDIVISION TWO OF SECTION FIVE HUNDRED THIRTY AND SUBDIVI-
55 SION THREE OF SECTION FIVE HUNDRED TWENTY-NINE OF THE EXECUTIVE LAW. THE
56 COMPREHENSIVE DETENTION PLAN WILL SPECIFY WHICH LOCAL ENTITY WILL

1 RECEIVE THESE FUNDS AND THE APPROPRIATE USES AND DISTRIBUTION OF THESE
2 FUNDS.

3 3. THE SOCIAL SERVICES DISTRICT AND/OR PROBATION DEPARTMENT OVERSEEING
4 THE ALTERNATIVE-TO-DETENTION PROGRAMS SHALL SUBMIT ANNUALLY TO THE
5 OFFICE OF CHILDREN AND FAMILY SERVICES, IN THE MANNER DETERMINED BY THAT
6 OFFICE, A REQUEST FOR REIMBURSEMENT WITHIN TWELVE MONTHS OF INITIALLY
7 QUALIFYING FOR THE REIMBURSEMENT.

8 S 5. Subdivision 1 of section 352.2 of the family court act, as added
9 by chapter 920 of the laws of 1982, is amended to read as follows:

10 1. Upon the conclusion of the dispositional hearing, the court shall
11 enter an order of disposition:

12 (a) conditionally discharging the respondent in accord with section
13 353.1; or

14 (b) putting the respondent on probation in accord with section 353.2;
15 or

16 (c) continuing the proceeding and placing the respondent in accord
17 with section 353.3; or

18 (d) placing the respondent in accord with section 353.4; or

19 (e) continuing the proceeding and placing the respondent under a
20 restrictive placement in accord with section 353.5[.]; OR

21 (F) PLACING THE RESPONDENT IN AN EVIDENCE BASED ALTERNATIVE-TO-PLACE-
22 MENT PROGRAM.

23 S 6. This act shall take effect July 1, 2010, provided however that
24 any rules or regulations may be promulgated before such effective date.